

To: "Robert Law" [rlaw@demaximis.com]
Cc: []
Bcc: []
From: CN=Stephanie Vaughn/OU=R2/O=USEPA/C=US
Sent: Mon 8/27/2012 4:17:25 PM
Subject: Re: EPA's August 23 letter

I don't have the word file, but here's the text.

There are a few schedule things to discuss, can you give me a call?

Thanks

This will respond to the recent correspondence between Occidental Chemical Corporation ("Occidental") and the Cooperating Parties Group ("CPG"), conveying Occidental's offer to the CPG to participate in implementation of the removal action at River Mile 10.9 ("RM 10.9 removal action"), and the CPG's rejection of that offer.

We recognize that Occidental's offer, described in Carol Dinkins' letter dated July 27, 2012 and elaborated upon in Ms. Dinkins' letter dated August 6, 2012, and the agreement enclosed therein, raises several significant hurdles for the CPG, such that in its current form the CPG could not accept the offer. EPA would not expect the CPG to enter into an agreement with Occidental and Tierra Solutions, Inc. ("Tierra") that increased the removal action costs paid by the CPG or exposed the CPG to previously unanticipated responsibilities.

On the other hand, we are not convinced that the potential value of the upland processing facility ("UPF") as an element of the RM 10.9 removal action has been fully evaluated. We have decided that rather than allowing this option to slip away, EPA needs meet with you both to more fully discuss how the UPF could be incorporated in the RM 10.9 removal action. We anticipate this will allow us to make a determination as to whether there is any possibility of utilizing the UPF, and, if not, how else Occidental might participate and cooperate in the RM 10.9 removal action.

Please advise of your availability for a meeting on September 13, 2012.

In anticipation of the meeting, EPA would like the CPG to provide, by September 7, 2012, a detailed explanation of how it proposes to handle the sediment from RM 10.9. This explanation should include:

- The options that are being considered to handle all material generated during the RM 10.9 removal action, including the sediment itself, debris from the sediment, and barge decant water, whether or not pilot studies are conducted.
- If use of a new facility is being considered, the explanation should include all steps that will need to occur in order for this to be a viable option, again, whether or not pilot studies are conducted. These steps would include, without limitation, leasing or purchase of a facility, and permitting, contracting, and construction of any necessary structures. A detailed schedule should be included, with contingency options if any step cannot be met within the timeframe for the removal action.
- The viability of utilizing an existing commercial facility as a fall back option.

Unless we know what facilities are under consideration, whether they are permitted to accept all the

sediment that will require stabilization and off-site disposal, and whether they can handle the barge decant water, EPA cannot evaluate whether the CPG is being hasty in dismissing the possible need for the UPF. (Ray Basso has already requested most of this information in a recent call with CPG technical representatives.)

Also, EPA would like Occidental to be prepared for the possibility that the UPF would have to remain available for use by the CPG as a contingency option, should the CPG's other options fail. It is important to avoid a situation whereby the RM 10.9 removal action schedule cannot be met because the CPG's disposal options have fallen through. Under this scenario, there is no assurance that the CPG would assume the Arcadis contract and in fact, this might work only if someone other than the CPG itself is responsible for the dewatering operation – perhaps, as suggested by Mr. Hyatt, this would be Tierra. This question cannot be resolved at the moment. Until it can be, the UPF option should at least remain available.

We understand that Occidental will incur costs in extending its contract with Arcadis and the lease for the UPF property, even though ultimately the use of the UPF may not be required. This may be an unavoidable consequent of contingency planning. EPA will accept Occidental's actions and expenditures in doing so as part of its compliance with Unilateral Administrative Order CERCLA Docket No. 02-2012-2020.

From: "Robert Law" <rlaw@demaximis.com>
To: Stephanie Vaughn/R2/USEPA/US@EPA
Date: 08/27/2012 11:27 AM
Subject: EPA's August 23 letter

Can I get the word file - we are trying to respnd - and the pdf file was an immagine file...